

No Fear Act

I. Introduction

“Notification and Federal Employee Antidiscrimination and Retaliation Act”

Purpose of the law– “...to require that Federal agencies be accountable for violations of antidiscrimination and whistleblower protection laws...”

Date In Effect – October 1, 2003

II. FWS General Responsibilities Under No Fear Act

We have only received implementation guidance on Title III of the Act (#1 below). We are awaiting answers from OPM to many questions relating to Title II - the Reimbursement, Notification, and Reporting requirements (#2-#4 below). The expected date of issuance is unknown.

1. **Disclosing Complaints Data** – Must post “EEO Complaints Data” on Internet complaints data, on a quarterly basis. Must keep 5 years worth of data posted at all times. See FY2003 Annual Federal Equal Employment Opportunity Statistical Report of Discrimination Complaints (“462 Report”) for a summary of the data to be posted.
2. **Reimbursement Requirement** – All settlements/judgments are ultimately paid for by the Region/Program. Agency pays fund back within “reasonable” time. Can stagger payments to reduce financial hardship.
3. **Notification Requirement** –
 - a. Employees, applicants and former employees must be notified of their rights and protections under this law
 - b. Post this notification on the Internet site
 - c. Train employees on rights and remedies
4. **Reporting Requirement** – Annual report must be submitted to the Hill on : # of cases arising under both EEO/whistleblowing, status of these cases, \$ paid out each year for settlements/judgments, # of employees disciplined for discrimination/whistleblowing and “exact nature” of discipline, FY data on complaints (see #1), detailed description of policy implemented by agency related to disciplining.

III. Supervisor/Manager Responsibilities Under the No Fear Act

1. Prevent discrimination/retaliation by ensuring that your sups/mgrs receive adequate EEO training on : dispute resolution, communication skills, and management of a diverse workforce.

2. Ensure that your sups/mgrs are aware of the No Fear Act
3. Ensure that employees complete training, once they are notified of the availability
4. Review carefully all personnel decisions which you are in any way involved in
5. If there is a finding against one of your managers and/or employees, investigate and respond commensurately with correction action. Respect everyone's rights.
6. Budget accordingly in the event of a settlement or judgment
7. Do not use RIFs/furloughs to fund settlements/judgments

IV. Others' Responsibilities Under No Fear Act

1. **GAO** – Do studies on effects of reimbursement requirement on Agency operations, effects on DOJ personnel and costs on defending cases, effects on Treasury personnel and costs in tracking payments made by Agencies, and effects of eliminating requirement that employees file internally before filing with EEOC.
2. **EEOC** – Issue guidance regarding disclosure of complaints data (Title III). Post data on website re hearings and appeals.
3. **DCR** – Notifying Regions/Programs of judgments/settlements, assisting with reimbursement issues ; most aspects of the notification requirement ; most aspects of the reporting requirement ; most aspects of the complaints data requirement. DOI has ultimate responsibility to “post”, “report”, and “notify”. We provide the info to DOI.
4. **HR** – assist with personnel and reimbursement issues ; provide info regarding whistleblowing cases
5. **OPM** – Issue guidance regarding reimbursement, notification, and posting requirements (Title II). Conduct study regarding appropriate disciplinary actions and issue advisory guidelines incorporating “best practices” in this regard. Agency must then respond explaining whether it will fully follow these guidelines and if not, why not.
6. **DOI** - DOI has ultimate responsibility to “post”, “report”, and “notify”. We provide the info to DOI.

*(11/24/03)

(This document may be edited upon receipt of Title II guidance)